City of Lafayette
Lafayette Special City Council Meeting

MINUTES

Lafayette Community Park
480 St. Mary's Road, Lafayette, California

August 10, 2009
6:30 p.m.

1. CALL TO ORDER

Mayor Tatzin called the Special City Council meeting to order at 6:30 p.m.

2. ROLL CALL

Present: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Jennifer Russell, Parks, Trails & Recreation Director

3. ADOPTION OF AGENDA

ACTION: It was M/S/C (Anderson/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

4. PUBLIC COMMENT

5. PRESENTATION
Lafayette Community Park
Children's Play Area – Ribbon Cutting

The Council held a ribbon cutting ceremony at the Lafayette Community Park Children's Play Area.

6. ADJOURNMENT

The City Council adjourned the Special meeting at 6:55 p.m. to the Regular City Council meeting.

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City

IIA1

City of Lafayette
Lafayette City Council
Redevelopment Agency
Creeks Committee Meeting

MINUTES

Lafayette Community Center – Manzanita Room
500 St. Mary's Road, Lafayette, California

August 10, 2009
7:00 p.m.

1. CALL TO ORDER

Mayor Tatzin called the City Council meeting to order at 7:00 p.m.

2. ROLL CALL

Present: City Council: Mayor Tatzin, Vice Mayor Andersson, Councilmembers Anderson, Anduri and Federighi

Absent: None

Creeks Committee: Scott Honegger, Chairperson; Committee Members Will Elder and Jeff Gilman

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop K. Srivatsa, Planning & Building Services Manager; Gonzalo Silva, Financial Services Manager; Jennifer Russell, Parks, Trails & Recreation Director; Donna Feehan, Administrative Analyst; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk

3. PLEDGE OF ALLEGIANCE – led by Benny Tan.

4. ADOPTION OF AGENDA

Mayor Tatzin reported that the agenda had been amended.

ACTION: It was M/S/C (Anderson/Andersson) to adopt the agenda, as amended. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

5. PUBLIC COMMENT

JOANNE TAN, Founder and Leader of the Holy Planet Task Force and winner of two Green Awards in 2007, said her son, Benny, is present to learn how to be a caring and responsible citizen, how the democratic process works, how to address issues at the local government level for his Boy Scout citizenship in the community merit badge. She spoke of awareness of her son's generation to save the planet from pollution, exploitation and destruction, and asked the Council to place a matter to replace Styrofoam food containers and cups with paper containers and cups in all restaurants and stores in the City on the September 14, 2009 agenda.

Mayor Tatzin said he forwarded Ms. Tan's request to the Chamber of Commerce who would like the opportunity to discuss the matter in advance of the Council.

Councilmember Anderson suggested the matter be reviewed by the Environmental Task Force, and the Council agreed to refer it to the task force and for it to return to the Council on October 13, 2009.

DON LIVELY said for many years he sought to get the City and County to outsource Library operations and suggested the Lamorinda cities discuss the concept of a consortium to operate libraries. He noted his research has shown this to be successful in Riverside, Redding, Moorpark, and other communities, and asked that a program be established for Lafayette through the assistance of LSSI. He also asked that Senator DeSaulnier to include in his discussion his position on the offering by three management consultants of the taxpayer's association to conduct a management review of the County budget to find money to operate libraries.

Mayor Tatzin noted that the City's contribution is not changing except for inflation, and the County's new policy for funding libraries calls them to fund 30-35 hours and not fund maintenance. Because Lafayette is moving into a larger building and budget, the City will actually get more money from the County than has historically been the case. When outsourcing services, he said they need to look at revenue as well as expenses. The property tax raised to pay for Library services is less than what the County is putting in, so if the City were to withdraw from the County system, the City would most likely get the amount of money it contributes. Therefore, it is not clear that LSSI could save the City enough to offset that difference.

Mayor Tatzin also noted that Orinda and Moraga are heavily subsidized by other portions of the County. While the proposal may make sense for the County, in the case of Lamorinda, it does not make sense.

ELLIS GOLDBERG, Danville, Co-Chair, Contra Costa Democratic Party, said he read the article in the Contra Costa Times about the outrage of the Mayor and the City Manager over the budget cuts unfairly passed down to Lafayette, and said the Contra Costa Democratic Party supports majority rule for both budget and revenue legislation. The current 2/3 requirement allows 1/3 plus one minority to sabotage the State budget and hold the State hostage in order to extort concessions from the majority that have now been passed down to Lafayette and other local governments throughout the State. He said loopholes created are used to circumvent paying a fair share and the biggest loophole is the minority veto that one-third plus one of the legislature uses to protect those taking advantage of the loopholes being required to pay a fair share to run the State. He asked the Council to join in support of him and Dr. George Lakehoff who wrote an initiative ballot which states all legislative actions on revenue and budget must be determined by majority vote. The target date to place the initiative on the ballot is November 2010 and he asked the Council to be empathetic, responsible and courageous and pass a resolution supporting Dr. Lakehoff's Initiative and support of the petition.

Vice Mayor Andersson commented that about one month ago, the organizations representing the State local officials, cities, counties and school boards met in Sacramento regarding the budget crisis and one thing that had support from all groups had to do with doing away with the super majorities for both the State budget and for local revenues. How one gets there is more complicated; however, there was discussion about working through the initiative process and a Constitutional Convention process.

6. PRESENTATION

A. Mayor Tatzin

Invitation to State Legislators to Discuss Their Votes and Positions Regarding the State Budget

Recommendation: Discuss and direct staff.

Mayor Tatzin noted that Assembly member Nancy Skinner and Senator Mark DeSaulnier were invited to talk about the State budget and to allow the Council and the public an opportunity to ask questions. He thanked Senator DeSaulnier for attending the meeting, and noted that Assembly member Skinner is out of town but District Director Angela Ramirez-Holmes is in attendance. He asked to have the City Manager explain the effects of the State actions will be on City revenues for the coming year, discuss implications of what it does to City programs and compare Lafayette to other nearby communities.

City Manager Falk said the budget approved by the Legislature and signed by the Governor is complex which will have broad impacts for many agencies. For cities, there is a State take-away of money from the Redevelopment Agencies and there is a program wherein cities will be loaning money from the General Fund to the State.

The State take-away is expected to total $1.2 million for Lafayette Redevelopment Agency. It will have a profound effect on the construction of the Library. The community has been working on the Library for more than 10 years; the project is a model of community cooperation and significant contributions have been received. In order to complete the building, the Agency developed a financial plan predicated on an assumption that there would be steady cash flows from the Agency to pay down the debt required to build the building. The State's recent budget action "pulls the rug out from under" that plan. With 50 days to the end of the construction period, the Agency does not now have the wherewithal to see the project to completion.

The Mayor and staff have begun scouring the community for other resources to allow the project to be completed and expect this to come in the form of a loan from another public, private or non-profit agency, but no progress has been received to date on securing the loan.

Regarding the General Fund, Proposition 1A approved by voters, was intended to protect California municipalities from further raids by the State. It does allow under certain conditions the State to borrow monies from California cities. For Lafayette, the impacts to the General Fund will be a reduction of $482,000 in funds that otherwise would flow into the General Fund. This is equivalent to about 5% of the City's total General Fund budget, or to about 17% of the City's payroll, or to about half of the General Fund amount that the City normally contributes to the City's annual road repair program. He said this is a major impact to the City, something staff has discussed with Council, and the Administrative Services Director will be preparing several budget updates throughout the year.

Regarding the impact to other communities, while Lafayette has been hit hard, its brunt is nothing in comparison to other cities' catastrophic impacts. For example, the City of Richmond will see about a $10 million reduction in their RDA monies, the City of Oakland, $40 million and the City of Antioch whose property tax declined from $21 to $14 million will see another $2 million reduction to RDA funds.

Councilmember Anderson acknowledged that the City of Lafayette would have a total loss of $1.682 million. Mayor Tatzin noted there is another RDA loss of $300 million statewide next year,

which would translate to about $250,000 for Lafayette, assuming no further action by the legislature.

Senator DeSaulnier said this is the worst global recession since the Great Depression; the Governor suggested eliminating CalWorks altogether and California would have been the only state in the country that did not have a partnership with the Federal government. He noted CalWorks was part of welfare reform and a bipartisan effort which has worked fairly well nationally. The Governor wanted to also eliminate Cal Grants for poor and middle income people who cannot afford to attend UCs and they negotiated 1/3 of a cut instead of elimination. The Governor also suggested ending Healthy Families, but all states were happy to get it reinstated so young people who do not qualify for health insurance have a place to go in California.

The general discussion in the Senate Democratic Caucus was that local government, compared to education and other departments, was in relative good shape, but this was taken to court, challenged and local government prevailed. However, the action taken two weeks ago would supersede this. He said the general discussion was to protect Proposition 1A, which was a deal to drop the VLF with a trigger that it would increase administratively if there were a deficit. Governor Davis was recalled for this and Governor Schwarzenegger dropped it again, which cost California over $6 billion a year in income over the last 7 years, or $42 billion. People would have had to come up with $200 extra on their Vehicle License Fee.

The second controversial action was the gas tax funds. Senator Lowenthal proposed the transfer of the Affordable Housing Funds from RDA's with the idea that this could be returned to cities. The trade-off was that cities would not do any projects for the year and they would get the life of the RDA extension to cover that cost, which remains to be seen. He had discussions with the League of California Cities and CSAC on how to protect local government and in the end the Governor decided to take all four things, and he voted against Proposition 1A and the gas tax funds. He pointed out that years ago, when the Board of Supervisors approved the Lafayette RDA it was a 2-2 vote with him being the deciding vote, and he was persuaded that the City did need the money.

Mayor Tatzin said the RDA vote will certainly lead to another lawsuit, and he questioned what convinces the State that its position is viable at this time. Senator DeSaulnier said the State believes in its original position and the matter will be decided upon by a judge. He noted that the State had a $15 billion problem at the beginning of last year, a $42 billion problem mid-way through, a $26 billion problem to start the new year and has not begun to address systemic problems. He noted there has been no serious interest from Wall Street to securitize Ed Fund and give California the money. Similarly, the State booked $1 billion for the State Workers' Compensation Insurance Fund's pool of money and this has also not been done. Therefore, the question is how to get real, holistic change in the entire system.

Mayor Tatzin acknowledged holistic change has not happened. The State will have another deficit which will be exacerbated by the inability to securitize revenues and the decision to postpone payrolls and save billions. He questioned where the Senator's position will be next year in regard to local government.

Senator DeSaulnier said he held a discussion with Senator Steinberg today about the need to discuss systemic changes. The bills that would call for Constitutional Convention will go to Senate elections in the next two weeks in which Senator Hancock and he are on, and hopefully it will be discussed on the floor in September. Senator Steinberg's response is that he wants to have a Constitutional Convention in the building, but he was not sure this could be done inside the

building. His goal is to keep the pressure on to look at long-term systemic change, but felt there could be interim actions taken.

Councilmember Anderson questioned what interim actions could be taken. He said he has been hearing that legislators will be back in October to try to deal with the continuing deficit problem. The softest targets are local cities and he questioned what would halt the process.

Senator DeSaulnier noted one is the Department of Corrections. The federal courts will have to release 45,000 inmates in a way that is secure to the public. He personally has a bill that would increase the fee on liquor by 5 cents, as California is 49 out of 50 states on what it taxes liquor. It costs $18,000 a year in a residential treatment bed and $50,000 a year to keep them in prison, which makes criminals worse. The Corrections budget could also be cut by about 1/3 which will pick up about $3 billion in savings, some of which will need to go back into the system. Tobacco tax is another similar tax, as well as more cuts at the State level. There are many Caltrans projects that are federally funded and more can be cut administratively across the board. He said his office has been reduced by 25% since he went into office, his District staff comprises of 3 people to serve 1 million, and he believes there are also other things that can be done to raise money. What gives him the biggest heartache is education. Luckily, Lafayette has a good school system, but school turnovers at places like Richmond, Antioch, and Concord are tough.

Councilmember Anderson questioned cutting at the State level and Caltrans' funded projects. Senator DeSaulnier said the Contra Costa Times discussed adding of State positions, but they did not mention that most of the revenue from adding people came from the federal government. Also, rather than laying people off, employees took furloughs. He said they will continue to do stimulus projects for Caltrans projects, such as the fully funded Caldecott Tunnel and the Fourth Bore. He noted that the Governor furloughed unemployment insurance staff for three days, which are mostly funded from federal funds. About 1,000 employees were added with federal stimulus money because people cannot get their unemployment insurance with current staff.

Councilmember Anderson voiced concern about where the City safety net is. His sense is that cities are sitting as easy targets, he was afraid cities were not getting enough support and that they would be back again in October. Senator DeSaulnier said he was not sure where else City revenues could be taken and acknowledged the need to protect local citizen services.

Mayor Tatzin said, assuming the State were to prevail in the redevelopment takeaway, he questioned what would hold the State from simply taking more redevelopment funds in the future. Senator DeSaulnier suggested holding discussions and asked that City Councils call legislators in and hold town hall meetings.

Vice Mayor Andersson referred to the constitutionality of the redevelopment funds, changes which lawyers feel would make it constitutional, and having looked more closely at all issues involved he said the change made is that RDA funds taken would be spent on school districts which include RDA's in their jurisdictions. This is hard to say that this is money needing to be spent on a RDA project, given Lafayette's case that all 5 elementary schools are not in the RDA and 5 high schools are not in the RDA either. He said even if it does pass, if the redirection of the tax increment fails the Constitutional requirement because revenues diverted are not related to or proportional to the cost of the impact on schools caused by the project, he thinks it is extremely difficult to make the argument that it fits the definition or intent. He said if it is accepted, there is a very strong possibility that the RDA take would also be judged unconstitutional; it could happen through a long process or it could be determined unconstitutional at its first level which could happen quickly.

He said there is also a concern that if there is a shortfall in the fall, then the City is a target again. It seems also likely that if part of that shortfall is caused by a judgment that the RDA take is unconstitutional, the City will get that back which leaves a more obvious target which he is worried about.

Senator DeSaulnier said the money will come from Health and Human Services; Lafayette will not feel this effect but other cities will. He noted these are not easy choices and someone will be hurt somewhere. Personally, education and local government is where most Californians get their services and he felt this should continue to be fought for. He said he did not agree with Proposition 1A when he was a County Supervisor and he remembered thinking back that the State would be in this situation.

Mayor Tatzin said for those who voted on the Proposition 1A loan, he questioned what they rely on to believe that the State will be able to pay this back. Senator DeSaulnier said this was his reason for voting against it; when this becomes due is right at the time they lose the 1% sales tax increase passed in February, which is over $1 billion. If initiatives pass in the March Special Election, this would have been continued for 4.5 years; by it failing, it is for two years. He said he thinks the answer is that there were no good choices.

District Director Angela Ramirez-Holmes said the statutory language on the Proposition 1A payment is very strong. She understands the City's doubt, she did not know what would happen in a couple of months; however, with the current deal through securitization, the take would occur in December if the State can secure the money. In addition, the language states that local governance would be paid back after the two constitutional requirements—Debt Service and Proposition 98. She also understands cities' apprehension and distrust that the language could change at any time.

Ms. Ramirez-Holmes referred to the staff report and said it indicates that Assembly member Skinner voted to take away the gas tax allocation, but in fact, she and other Assembly members are the reason it died in Assembly. She wanted to be clear that what happened was that there were earlier votes taken during the Conference Committee vote, in which Proposition 1A was not on the table, and the Assemblywoman voted at that time. Because it failed in the Assembly, it was moved in the inactive file and does not show as a vote.

Senator DeSaulnier said for those who voted for Proposition 1A, he heard arguments that local government were the authors of Proposition 1A, which indicates that under extreme circumstances, cities will loan the money and the State will pay back the money with interest.

Mayor Tatzin said on the housing portion of the RDA, one of the things cities are told by the State is to set aside 20% of its RDA funds for housing, they are told to come up with plans to meet REHNA numbers including affordable housing, and at the last meeting the Council approved putting in the last $500,000 of the RDA housing money into a project to build affordable housing. He was surprised that the State, who has been supportive of affordable housing, states that it needs the money and affordable housing is now not so important. Senator DeSaulnier said they suspended the requirements for the year and allowed the cities to add a year to the end of the RDA to remain whole.

Mayor Tatzin said a number of cities in the County have RDA's that have caps on the amounts they can raise. It would help if there were subsequent clarifying bills that the take by the State is

outside the cap rather than inside the cap, and he asked Senator DeSaulnier to take this under consideration.

Senator DeSaulnier suggested that there be a Legislative Committee of the Mayors Conference where more discussion could take place.

Vice Mayor Andersson referred to the strong payback provisions in Proposition 1A, and he questioned if Assembly member Skinner will resist weakening on any of those provisions. Ms. Ramirez-Holmes said she was not sure; she wished there were not so many difficult choices and noted she will take back suggestions of the Council to Assembly member Skinner and hoped for continual dialogue. She noted that the Conference Committee had proposed revenue increases; the tobacco tax and the Assembly member's bill about changing the collection from the user to the retailer in order for the State to collect it.

Mayor Tatzin said if these revenue increases do not occur, there is an implication that local governments remain fair game, and Ms. Ramirez-Holmes said she did not think it was fair to indicate that revenues will continue to drop or that economic recovery is not as strong as felt previously. She noted that Assembly member Skinner has been in office since December 1st. There are structural problems such as super majority budget votes, term limits, no one responsible for decisions made previously, and they will listen, take comments and look for other revenues.

Councilmember Anderson said he had a chance to discuss this before at an event and what he has heard consistently from Ms. Ramirez-Holmes is placing Lafayette's situation on par and not suffering as bad with other very difficult and sad situations. He acknowledged that suffering on parts of people who have little or nothing is a major issue. He thinks the difference is that those issues are the responsibility of the State, and cities have their own responsibilities and do not have the option to reach into someone else's pockets and remove funding to solve their own responsibilities and problems. This is what he finds difficult to swallow because the responsibility is not the City's. He asked Ms. Ramirez-Holmes to tell the Assembly member that there are many things dependent on the gas tax and Lafayette needs it, he does not want to lose it and that the State's and cities' responsibilities do diverge at some point.

Mayor Tatzin said Lafayette is an unusual case because its assessed values went up, it has an AAA bond rating, and the City did this through careful planning and build up of substantial reserves. The State chose not to do this; it relies on highly variable funding sources, did not put money away, and in looking at other cities in the County, they have not been as fortunate. They have seen dramatic decreases in sales tax revenue, property tax revenue, and fee revenues from new home construction, and then the State says it has a crisis and wants to take more money from local governments. It is not so much that there is no one for the City to turn to, but that it is morally and ethically wrong to begin with.

Director Ramirez-Holmes said she did not disagree with anything the Council has said and agreed all cities are heavily impacted.

Mayor Tatzin questioned what other solutions Assembly member Skinner sees that could get the State out of this cycle going forward. Ms. Ramirez-Holmes said they must focus on economic recovery at the State and national level, they must do some reform for majority vote, there must not be policy discussions in budget bills, they need to keep finding reasonable revenue sources, there will be more cuts, and we must decide what things we are willing to keep and what we are not willing to keep. She said they received 1,000 letters on State parks, that there are systematic

changes like how to put things on the ballot without tying any revenue sources, structural changes, and looking at the antiquated tax system.

Councilmember Anduri agreed there are very difficult choices. He questioned what is it that makes it impossible to raise the income tax on high income individuals to pay for services the State is cutting. Ms Ramirez-Holmes said to raise any tax takes a 2/3 majority vote, and every single Republican has signed a no new tax pledge. Those that broke that in February are being recalled. She said she thinks it is a dereliction of duty to say all new taxes are off the table, as the rainy day is here. And, she did not see how raising fees 10% on UC and CSU students does not constitute a tax on college students.

Councilmember Anduri said if there were a change and we did away with the super majority, he questioned whether the Democratic members of legislature would lose their "cover" and questioned whether they would be willing to support an increase in income tax. Senator DeSaulnier said yes, this is part of the problem. He said in Clinton McClintock's words, "Democrats would own the budget" and he felt this was appropriate. At the current marginal rate if one makes over $300,000 a year or $625,000 for two incomes in a single household, it was at 11% which was high, but it went down to just under 9.5%. If the 1.5% increase was maintained, along with the VLF, the State would have a surplus if it had this since 1992. And, California would be under 30 in per pupil spending.

Lastly, Senator DeSaulnier referred to the super majority requirements where you need 6 Republicans and said that every Republican who has voted in the last 15 years for tax increases has either not been re-elected or has been recalled, and therefore reflective of their constituents.

Mayor Tatzin referred to AB 8155 which died in the Senate, but Assembly member Skinner voted for it when it was in the Assembly. He said the members are political and in the legislature, so it was not a technical advisory group. Also, in going to their website, their last meeting was in July 2008 and they have not yet published the minutes for that meeting. The last meeting for which minutes exist is July 2007. The meeting before that was July 2006. He questioned what kind of group this was to make decisions about whether cities could file bankruptcy and under what provisions. Senator DeSaulnier said he did not believe they were ready; if there are discussions to have another similar bill, he will certainly be involved in the process.

Councilmember Federighi said Senator DeSaulnier has been supportive of a Constitutional Convention, and one organized outside the tent rather than inside, and she asked how the delegates would be chosen. Senator DeSaulnier said there are currently three bills; his bill does not address how delegates are chosen. The first step is legislature by super majority must call for a convention and the voters have to approve it. It returns to the legislature and delegates are defined, and to the degree allowed, you try to give guidance as to what they will actually do at the convention.

The Bay Area Council has two bills which he will carry; one changes how this works. They would put an Initiative on the 2010 ballot through signature-gathering. Currently, the Constitution states that only the legislature can call a convention and the legislature supports that. What they would do is change that part of the Constitution by a ballot Initiative, saying, shall we change the Constitution to say that the voters can call a constitutional convention without the legislature? On the same ballot, they will have a second bill that actually calls a convention, and he said this is how you go outside.

Councilmember Federighi questioned how delegates will be chosen. Senator DeSaulnier said the Bay Area Council's decision is already written--it states it will be a jury pool just like redistricting. Proposition 11 is a jury pool of 15 people; 5 Republicans, 5 Democrats, and 5 others. They use the same mechanism. His bill does not say that, but his idea is to do that but also allow some members of the public be able to run to be members of the Constitutional Convention. He noted there is a vetting process; either the legislature or central committees could nominate somebody. This is the concern with the jury pool—you want to get people like Bruce Kane from Lafayette and the UC who has expertise to be part of the Convention. He would provide for a jury pool or have some appointment or election process to get experts as members.

Senator DeSaulnier said lastly what the Bay Area Council suggested is that they would have an oversight commission as part of the Convention. Those people would be the Chancellors of all UC's; however, he did not think this got to getting people with specific expertise.

Ms. Ramirez-Holmes thanked the Council for the invitation, supported continuation of the discussion, and said she has heard a lot of suggestions as well as requests in meeting with the League of California Cities.

Senator DeSaulnier thanked the Council and suggested that the Public Manager's Association (PMA) also discuss issues. Mayor Tatzin reminded both speakers about the idea that the RDA takes be outside the caps, and Senator DeSaulnier suggested setting up a meeting to further discuss this.

Councilmember Anderson thanked both the Senator and Director for their presentations and believed that other cities would also benefit from discussions.

Public Comments:

DIDDO CLARK, Lamorinda representative, Contra Costa Democratic Central Committee, said she wanted to send four messages: 1) she thanked Mayor Tatzin and City Manager Falk for their eloquent commentary decrying California's dysfunctional State government; 2) the Committee for Democracy in California is dedicated to making our legislature more democratic, accountable and functional by letting legislators adopt budget and revenue measures by majority vote. Now, 1/3 can veto what 2/3 wants, budget and revenue measures are not adopted in a reasonable time, the State steals from cities and no one is accountable. When the legislature can adopt by majority vote, the majority can be held accountable and if the electorate does not approve, the responsible parties can be voted out; 3) the Congressional raise—in our Congressional District, there are 18% more registered Democrats than registered Republicans and the next Congressperson is certain to be a Democrat. On August 1st, the California Democratic Party conducted a 10th Congressional District Endorsement Caucus with almost 300 delegates; 53% voted for Mark DeSaulnier, 26% voted for Joan Buchanan, and fewer than 20% voted for John Garamendi; and 4) Mark DeSaulnier has probably done more to cure California's brokenness than anyone else in government today. He has introduced legislation to start over and supports a majority vote to adopt budget and revenue measures.

MARY ANN HOISINGTON said she is a native Californian and has never been so ashamed of her State. She questioned how the Governor can sign a bill that steals from citizens and questioned why an oil severance tax cannot be passed. California is one of the only states that drill for oil that does not have a tax and she thinks the State simply does not have the courage to do it.

Ms. Ramirez-Holmes said the Budget Conference Committee's original budget had an oil severance fee, which got dropped in the compromise, and instead, a potential oil drilling was proposed off of the Santa Barbara coast, which was also defeated in the legislature. She said they are trying to do this, and the oil severance fee has been on the top of Assembly member Skinner's list.

Senator DeSaulnier said they actually voted on it in the Senate but it needed two Republicans to vote with them to get the super majority, so it failed.

Councilmembers thanked both speakers for their presentations and said they look forward to continued discussions.

Convene Jointly with Creeks Committee

ACTION: It was M/S/C (Andersson/Anduri) to convene jointly with the Creeks Committee. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

B. Creeks Committee
2009 Goals and Accomplishments
Recommendation: Receive and file.

Chairperson Scott Honegger introduced members Will Elder and Jeff Gilman, and noted those members not in attendance were Phil Gaffney, Shel Lewis and Alina Maria Moiceanu. Mr. Honegger said they were very happy about the path project along Lafayette Creek along Mt. Diablo Boulevard and the Reservoir; they appreciate the Council's and staff's responsiveness to their requests, particularly for impervious concrete. He reported the project is very close to completion, discussed concerns about the shoulder's stability and appearance, and said they are hoping for funding for hydroseeding the shoulder with a native grass or wildflower mix, as well as the shoulder by the culvert work which will provide for a more authentic riparian appearance. They also hope for signage along the creek to explain the utility of the impervious surface and its contributions.

Regarding the Downtown Strategic Plan, they appreciate the ability to provide input and reiterated their endorsement for the basic concepts of creek enhancement being proposed in the plan. He, Vice Mayor Andersson, Will Elder, David Terhune from Public Works and Greg Connaughton, Assistant Public Works Director with Contra Costa County Flood Control met today and walked the channelized segment of the creek and they learned that the County has its own 50 year plan to move from channels to creeks. He read into the record a paragraph from the plan referencing the role of cities in the process as multiple stakeholders. They urge the Council that if the specific plan is adopted with the creek enhancement, that there be some allocation of City or RDA funds for plan and design development for creek concepts. This will facilitate applications for grant monies and enlistment from other stakeholders in the county to participate.

Chair Honegger said the creek survey results were distributed. The first survey was issued in the summer when the creek was dry and the Committee decided to re-issue the survey again last fall with the thought that this would be the wettest winter and people would have a chance to see water flowing. Additional responses were received, but there was no flood condition. He said Will Elder has prepared a brief summary and a map and will discuss the results.

Committee member Will Elder presented the map and said they had 82 additional people respond to the second survey. From that, there were 52 additional new people who responded, for a total

of 169 responses of creek side owners and businesses. He said it was interesting to see the second responses, as information provided from one year to the next was not completely consistent, but new information augmented what they already knew. He said some areas revealed difference in the headwaters at Reliez Creek in two places; one in Spring Hill Road and up by Shangri-La.

Mr. Elder pointed out the following comments from responses regarding different creeks:

Grizzly Creek: (Highest down cutting rates in the creek system in Lafayette)

- Concern that the downfall on Castle Court empties into the creek toward their bank which they request be fixed;
- Concern with the Wildwood Septic Tank across the creek leaching into Grizzly Creek indicated by dye tests done by the sanitary district without enforcement.

Las Trampas Creek:

- Teachers at Stanley School report they want to share their 3 years worth of water quality data;
- Concern about development in Moraga draining into the Creek System upstream;
- Unfairness with the Creekside HOA is responsible for creeks, yet all of Lafayette dumps into them;
- New house and ball field drainage drops waterfall into the creek;
- Concerns about a large outfall across the creek constructed with Hidden Oaks development which is not properly engineered.

Old Jonas Creek:

- A lot at the corner of Moraga Road and St. Mary's should become a park, perhaps a dog park;
- Concerns with filling of the bed at the end of Rosedale that will cause flooding.

Lafayette Creek:

- Would like to add more gabions but permits and process too much of a hassle;
- Permitting process should be streamlined. Fish and Game wants plants but plants don't work after a problem exists.

Happy Valley Creek:

- Storm drain culvert opposite house backs up and floods every time it rains in a major way;
- Send out notices to creek residents about not polluting and enforce the rules on construction pollution. Mr. Elder said a number of people reported construction debris in the creeks and he was not sure whether this was on-going construction debris or from debris people have used to stabilize their creek;
- Culvert under Happy Valley Road directs flow onto my creek bank;
- Less frogs noticeable in creek and more mosquitoes around—more help with mosquitoes;
- Concern with water flowing down Crest Road from poor drainage washing away the road into the storm drain.

Reliez Creek:

- Culvert above property plugs up and floods yard. EBMUD and City do not respond. Built small retaining wall to keep the flood water out;
- Large storm drain off Del Arroyo Court continually produces foamy, soapy water. Grew up there and used to see snails, ducks, fish in the creek but now they're gone. Worried about the pollution.

Mr. Elder said they are planning to send a letter to all 169 respondents, thank them, provide an overview of the total responses, and provide them with resources to address some of the issues they are concerned about. He believed that about 30% of respondents have concerns and need information about how to deal with their concerns.

Vice Mayor Andersson noted there were a limited number of people with flooding concerns, but most indicated high floods are not on major creeks. He questioned if these may be localized situations or creek-related. Mr. Elder said there are a number of places which are actually tributaries to creeks which seem to have flood issues, and he guessed that not all have been assessed.

Mr. Honegger reiterated that the survey results and compilation is anecdotal to those responded; the Committee does not verify any responses and consolidates information for a summary. He said he and neighbors have invested thousands of dollars in creek bank stabilization and many have not responded to the survey. He confirmed with Councilmember Anduri that the survey went to roughly 1,000 addresses of property and business owners whose property abuts one of the drainages, and this includes some intermittent creeks.

Councilmember Anduri questioned if there was something associated with the symbol by those surveyed, and provided the example of number 53, the property on the northern Reliez Creek tributary. Mr. Elder responded that the numbers are sequential and they have an Excel database of all surveyed.

Mr. Honegger noted the next subject is their highest priority—complete the Creeks Corridor Master Plan. He said they want to assimilate some of the concepts, especially if adopted, in the Downtown Specific Plan. He believed there is a need for subcommittee work and special meetings due to the plan's significant undertaking, and he said Jeff Gilman will provide a brief presentation.

Committee member Jeff Gilman said the concept of a Creek Corridor Plan is in the current General Plan as program OS-5.2.1 which he described. The Committee in 2003 prepared a conceptual plan for the master plan and forwarded it to the Council wherein the Committee defined creek corridors they envision to be a narrow tract of land that forms a passage-way and riparian buffer adjacent to a creek channel. A creek corridor may be regarded as the right-of-way for a creek. They went on to give their vision for corridors, which is to preserve and restore the natural beauty of water and riparian features, to create visual access to the creeks, to provide shade and help protect creek banks, to afford educational and passive recreational opportunities, to create a community attraction and be compatible with foot and bike paths within or adjacent to the corridors. He believes what is being discussed for creeks in the Downtown Specific Plan dovetails nicely with the vision, as well as the permeable pathway project along Mt. Diablo Boulevard, and they hope to complete the plan in 2010.

Mr. Gilman said they noticed agenda item 13.A. wherein the Council will discuss negotiation for a property along Olympic Boulevard. He said the Creeks Committee supports the Council's effort in negotiating and trying to acquire the property from the County and thinks that the portion running along Las Trampas Creek would make an excellent addition to the Creek Corridor. He said the Committee received a presentation from someone doing outdoor education for 2nd graders from Walnut Creek elementary schools, they received emails from teachers who participated who were excited for the opportunity, and the Committee hoped to share this also with Lafayette schools.

Vice Mayor Andersson commented that the theory of unintended consequences works in the City's favor. In looking at the Creeks Master Plan, the Downtown Specific Plan, and what the County is looking at to more natural creek beds, they do dovetail together. He acknowledged that the 50 year plan is promising, there is no funding identified as of yet, but the idea is that at least the Committee would like to see this happen.

Mr. Honegger said lastly, they need a full Committee for the work ahead and they will push to solicit more members. They will propose an edition of the Lafayette Vistas be dedicated to creeks and clean water. He felt it would be helpful for the community to understand Clean Water Act requirements and that if residents were aware of what the City is doing with creek corridor enhancements, the Committee would achieve more interest in membership.

Mayor Tatzin said Tracy Robinson should be contacted regarding the Vistas and thanked the Committee for their work and presentation.

Councilmember Anderson said he believed that the creeks in the Downtown Specific Plan process have become the real identity that people seem to cling to as the connector that pulls the downtown together. As the plan becomes more of a reality, the Committee will see more interest, and he also thanked the Committee for their work.

Adjourn joint meeting

ACTION: It was M/S/C (Tatzin/Anderson) to adjourn the Creeks Committee. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

7. OLD BUSINESS

A. Steven Falk, City Manager

1. 2009 Goals Update

Recommendation: Receive and file.

Mayor Tatzin noted that the report is a performance update of the 10 goals adopted earlier in the year, and he asked for a brief discussion of each.

City Manager Falk gave the following update:

Goal 1: Sheriff's Contract:

Mr. Falk said he and Vice Mayor Andersson have been in communication regarding progress to date. Matrix Consulting had larger challenges in terms of gathering information than anticipated when they originally submitted their bid. They have broken the project into two phases; 1) to gather a comprehensive description of each of the three City departments which has been completed. The 3 Town Managers met with consultants to hear their plans for phase 2 where they will look at alternative scenarios, cost them out and develop some recommendations that will come to the Councils.

For Lafayette, they are honing in on 5 alternatives in no particular order:

1. The status quo;
2. Create a single Sheriff's contract shared by Lafayette and Orinda;
3. A Lamorinda Police Department with the three cities forming a JPA to run out of a single facility;
4. Some subset of Danville, Lafayette, and Orinda for police services with Walnut Creek; and

5. A Danville-Orinda JPA.

He said Matrix Consulting hopes to have their analysis done later this month. The 3 City Managers all suggested to the consultant that it was better to take time to conduct a thorough analysis rather than rush to conclusions.

Mayor Tatzin said it would appear that task 5 will be finished in September and suggested adjusting the timeline. Mr. Falk believed that the Council will receive a draft report in September and he could not predict how much time all three cities will need. Mayor Tatzin thought that Task 6 could be completed by the end of the year, and Mr. Falk concurred.

Councilmember Federighi agreed and said to her, this is almost the most important part and she did not want to rush the analysis. She questioned how viable a Lafayette-Danville Police Department could be and commented that Matrix may not want to focus their analysis on this option.

Councilmember Anderson questioned how this backs up to the County's anticipated increase in cost and asked what the deadline was for this. Mr. Falk said when he and Ms. Robinson attended the annual Sheriff's meeting where projected costs were delivered their actuary told them that retirement costs would skyrocket. Subsequently, the information was brought to the Council, the RFP was issued, the study conducted, and now the Sheriff's Department indicates that retirement costs could be much lower than projected by the actuary. This causes a problem because the consultant does not now have accurate information with which to do cost projections, so there is less certainty.

Vice Mayor Andersson speculated that the difference is that the Sheriff's position might be informed as to whether or not there is an on-going study. He noted that Task 7 which was to take place at the end of the year was to provide notice to the County, and he confirmed with Mr. Falk that it was not a problem if the December deadline is missed, but practically, he would like it to occur at the beginning of the fiscal year.

Councilmember Federighi referred to the disparity between projections of the actuary and the Sheriff's Department and questioned if part of it could be accounted for the fact that part of the decision is how is the County going to pay for costs of retirees and it could place some of the burden on current employees that is then passed down on those who contract with the County. Mr. Falk believed this was accurate; when he and Ms. Robinson attended the earlier meeting the County was still in the middle of negotiating their contract and did not have a sound understanding about what share employees would pay of their retirement. He said the consultants may have an impossible task--to estimate the cost of 5-10 years into the future without a sound foundation, and they may have to do some speculation and provide assumptions.

Vice Mayor Andersson said, given scenarios of how the Sheriff's Department will charge over the next few years and comparative costs, he questioned to what extent is there the potential for negotiating with the department based on the various scenarios. Mr. Falk said they have no ability to negotiate; the department is 750 members and Lafayette has only 15 deputies.

ACTION: Mayor Tatzin confirmed with Council for action to amend the timeline to reflect current expectations; try and finish Task 6 by December and push Task 7 to sometime in the new year if it occurs at all.

Goal 2: Library and Learning Center:

Mr. Falk said he and Mayor Tatzin have been very involved with contractors. They have been meeting with the President and owner of the company every Thursday morning and are receiving updates weekly from both the City and contractor regarding progress to date, which have helped stimulate productivity. The contractor is making efforts to have the building substantially completed by October 1st and finally completed by November 14th. He said critical path items were reviewed at the last meeting. One set of metal panels being affixed to the outside of the building that were delivered were too small and now they are determining how to get the panels remanufactured, shipped and installed.

Mayor Tatzin noted that the other big issue is that there is a lot of work to be done and he thought the date of substantial completion may be changed a bit with the idea that the Librarian and others may be able to move in by November 14, and he did not see anything currently obstructing that opening date. He believed that the meetings have gotten back on track, announced that beginning at 5:30 p.m. on October 17th there will be a City thank-you to those who have gone above and beyond with regards to their voluntary contributions at the old library, with a march to the new library for festivities. The Council will also be giving docent-led tours. On November 7th, a gala will be held at 6:00 p.m., which is a black-tie event and fundraiser, with the grand opening scheduled for November 14th.

Goal 3: Financial Review and Charter City Recommendation:

Mr. Falk said tasks are complete. The Council established a joint communications and charter city task force who have made their recommendations to the Council and they were assigned a second phase.

Mayor Tatzin suggested adding the Draft Charter to the agenda in October/November, some communication recommendations, and also the concept of including questions about Charter City, property transfer tax and a community survey, which is in this year's budget.

Councilmember Federighi said the Council also indicated additional recommendations would be revisited. She said the Financial Review Committee recommendations, even with the Charter City, listed the Charter City as a long term solution, and what the Council agreed to do was when the State budget implications were understood, the Council would revisit our own budget and review the Finance Review Committee's recommendations.

Mr. Falk said this was done at the budget workshop; staff was specifically directed to include all of the major and minor recommendations made by the Financial Review Committee and some were accepted and some disregarded.

Councilmember Federighi questioned how the City would pay for the $1.1 million RDA grab. She had understood that when the State budget was finalized, the City would take another look and would review the initial Financial Review Committee's recommendations. Mr. Falk said staff added a $500,000 anticipated take-away in the General Fund, and did not anticipate a RDA take-away. He and Ms. Robinson have discussed this, there are new sales tax projections coming soon with a better understanding of what property tax revenues will be, and at some point in October, staff will return with a quarterly budget review.

Councilmember Federighi asked to review again the recommendations of the Financial Review Committee and said part of this was also moving the City offices.

Councilmember Anduri supported Councilmember Federighi's request with one change--he did not believe they were recommendations but rather options for considerations.

ACTION: Mayor Tatzin confirmed with the Council for action to add the Finance Review Committee's options as an October task and other tasks of the Committee.

Mayor Tatzin noted Orinda's committee is about one month behind Lafayette's and Moraga's is another month behind Orinda's. If the City wanted to do a November 2010 ballot measure for Charter Cities, it would behoove all three cities to do it simultaneously.

Goal 4: Adopt a Downtown Strategy and Specific Plan:

Mr. Falk reported that Ms. Merideth has provided a wealth of detailed information which describes the status of the project.

Councilmember Federighi said she did not see where the RDA is going to be reviewing the draft plan, and asked that a discussion be agendized. Ms. Merideth noted this is scheduled for October 13, 2009 and she agreed to agendize the item to "discuss" and said the report would be received on September 3rd.

Mayor Tatzin said the EIR will look at several alternatives; it may be that the final plan is a combination of one or more alternatives, and it was not clear what the interaction is between discussion of the impacts of the EIR and how this affects what the proposed plan is, and when that occurs. Ms. Merideth said the Draft EIR will come out in mid-December and it will be out for public review into February. In January, the next version will start to be prepared.

Mayor Tatzin said the Draft EIR comes out December 15th, there is a final Draft Specific Plan on February 8th, and at some point, Commissions and the Council should give staff direction as to what goes into the final Draft Specific Plan before it is released. Ms. Merideth said she will add something in the schedule, but thinks this will happen in January.

Councilmember Federighi questioned the reason for the Council to discuss the Draft Specific Plan prior to the Planning Commission. Ms. Merideth said this is the process proposed on May 9th by the Council and she said it needs to be balanced between what occurs with the EIR.

Mayor Tatzin noted the City is the proponent of the project; therefore, the meeting on October 13th is an opportunity for the project sponsor to figure out what project the Council wants to go forward. That project would then go to the Planning Commission and he saw the schedule consistent with what the Council identified in May in terms of steps. Councilmember Federighi then confirmed with Ms. Merideth that the Council will review it again after the Planning Commission.

ACTION: Mayor Tatzin confirmed with the Council that the schedule will be adjusted to read that the RDA would "discuss" the draft plan on October 13, 2009.

Goal 5: Fix More Failed Roads:

Mr. Falk said staff believes that the Council has undertaken all tasks established at the beginning of the year and that the item is complete.

Councilmember Anduri said he thinks the task force will want to meet again; the last report was on different variables, it is valuable to keep everybody up to date, and he said he would alert staff as to the next proposed meeting date.

Goal 6: Adopt Parks and Recreation Facilities Master Plan:

Parks, Trails and Recreation Director Jennifer Russell reported they are moving forward. They included some of the downtown parks and are now thinking this should not be done until the Downtown Plan is completed. They are entering the EIR process and have a draft being reviewed.

Mayor Tatzin said, with the exception of the downtown parks, he confirmed that Ms. Russell still anticipated a public hearing to adopt the plan in December.

Goal 7: Senior Needs Assessment:

Mr. Falk said the Council received the findings of the assessment one month ago, have undertaken tasks 1-8, and now it is up to the Senior Services Commission to take findings and prepare an action plan for Council's review.

Councilmember Anduri noted that task 8 was "develop and conduct a survey"; task 9 is "implement the data, analysis and report writing" which was done. He believed a new task 10 is needed, which is to "develop the plan for submission to the City Council" which he said was underway. He said he was hoping to present this to the Council in October and suggested a completion date of November.

ACTION: Councilmember Anduri confirmed with the Council that action is to add the new task 10: Develop the plan for submission to the City Council; Completion date of November 2009.

Goal 8: Parking:

Mr. Falk said the next agenda item will be discussed by the Council, and otherwise all task list items have been completed.

Goal 9: Open Space:

Mr. Falk said the City is fortunate to hire intern Zoe Merideth, a recent Geography major graduate from UC Berkeley. She is staffing a high functioning open space committee and there are 3-4 people who are experts in the field leading the charge, and the group has been very productive. A public workshop was held in mid-July which was well-attended. They developed draft criteria for selecting parcels and Councilmembers Federighi and Anduri are the liaisons of the Committee.

Councilmember Federighi said there is a skeleton Draft Open Space Master Plan, but criteria have not yet been completed. She wondered if the presentation of the draft plan would more realistically be September or October. Ms. Merideth agreed and said the Committee is enthusiastic, it is taking more time, and mappings are more complicated and cannot be completed until the committee makes some decisions.

ACTION: Mayor Tatzin confirmed with the Council that presentation of the draft plan to be adjusted to October 2009.

Goal 10: Open Government Statement:

Mr. Falk thanked the City Clerk for working on this and he confirmed this has been adopted.

Mayor Tatzin thanked staff for updating the Council and suggested agendizing another update for the second meeting in October.

ACTION: It was M/S/C (Tatzin/Anduri) to continue the 2009 Goals Update to October 26, 2009 for the next update. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

2. **Draft Letter to Property Owners Regarding City's Interest in Purchasing Downtown Property for the Purpose of Public Parking**
   Recommendation: Review draft letter and list of properties. Direct staff to send letter to property owners.

Mr. Falk said the Council directed staff to work with Councilmembers Anderson and Federighi to identify parcels within the parking boundary established as part of the Downtown Strategic Plan process and to draft a letter that might be sent to owners of parcels soliciting their interest in selling their property to the City for the purpose of creating additional off-street public parking. Staff and Councilmembers Anderson and Federighi have identified 17 parcels that are within the boundary except for 1, which is at the vacant corner of Dewing and Mt. Diablo Boulevard. Staff looked at opportunities that would provide for a parking structure or a double row of parking and that did not have circulation impediments.

Mr. Falk said interestingly, he sent an email indicating that there is one parcel for sale at the corner of Second and Mt. Diablo Boulevard; the old Links Appliance Store. The broker is interested in selling it to the City at a price which is not out of line with the fair market value. The process calls for people to let the City know by September 30th as to their interest, staff will not make contact with the broker until that time, and staff will return to the Council with feedback.

Vice Mayor Andersson referred to the Links Appliance Store's three parcels and he questioned the piece in the middle of the parcel. Mr. Falk said the parcels for sale are the two eastern most parcels. The small parcel west of the corner does not appear to be the same owner or they do not appear to be interested in selling the parcel. Mayor Tatzin believed the white object on the flyer to be a house and said when there was a proposal for a self-service car wash, the Council received comments from homeowners nearby.

Councilmember Federighi suggested an apostrophe not be added after the reference to "1990".

Councilmember Anduri said presumably, a number of sites are possibilities in the future for senior or affordable housing in the downtown.

ACTION: It was M/S/C (Federighi/Anderson) to direct staff to send the amended letter to property owners. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

B. Niroop K. Srivatsa, Planning & Building Services Manager
Request by David Bowie for Reconsideration of Special Assessment/Recovery of Costs–Administration Citation Issued for Multiple CCCBID and LMC Violations

(addition to a commercial building without permits) at 284-286 Lafayette Circle (APN 243-160-012), Herbert R. Monroe Trust, Property Owner
Recommendation: Consider request.

Mayor Tatzin said he was absent at the last meeting, stepped down and asked Vice Mayor Andersson to chair the session.

Planning and Building Services Manager Niroop Srivatsa said on July 27th the Council approved staff's recommendation to file a special assessment of $10,550 on the property for multiple Building Code and Municipal Code violations. Mr. David Bowie, attorney for the property owner, has filed a request for reconsideration. Staff has reviewed the Municipal Code with the City Attorney and does not find a mechanism in the Code which would allow the Council to entertain a request for reconsideration. Therefore, staff's recommendation is that the Council deny the request. However, if after hearing from Mr. Bowie, the Council is persuaded to take the next step, staff recommends the Council deny the request to waive that assessment.

David Bowie, Attorney representing Herbert R. Monroe, commended the Council for holding the State budget session update. Regarding their request, he acknowledged that Dr. Monroe did build an addition without permits. When the matter arose he was cited for it, and in determining whether or not it was feasible to do a reconstruction and go back and get permits, there was a requirement for a study and planning approvals to be undertaken. There was a Catch 22 involved, and Dr. Monroe did not know how to handle it. Mr. Bowie said after reviewing it, he believed the entire process should be re-started.

An architect was used to make the actual original drawings and do the construction. The architect was arranged by the tenant, which Dr. Monroe paid for it. Efforts to work with the architect proved to be unfruitful, steps were taken to retain an architect, he did not do the job required which was to show up with drawings to the Planning Division and try to evaluate the matter.

Mr. Bowie said after the last session, they met with the architect, as well as construction representatives. The matter was evaluated and looked like it was prohibitive in terms of making the addition conform to current code requirements. Also, being able to meet the planning requirements would require action on two variances, and Dr. Monroe feels he has no choice but to tear down the addition and render the building back to its original non-conforming status.

Mr. Bowie said he feels this is very burdensome, the entire $10,550 seems excessive, and he asked the Council to reconsider the penalty. He knows the typical practice of the County is to encourage people to bring buildings into conformity and obtain permits stating that normally the penalty is not so high, and he asked for some leeway.

Vice Mayor Andersson said the staff report indicates that the first hurdle is that there is no procedure for reconsideration at a later meeting, and he asked for Mr. Bowie's comment as to how he would pass this. Mr. Bowie said with regard to procedural matters, the Council can make its own rules; the Council has the inherent jurisdiction to reconsider the matter because it is within the Council's discretion as to what penalty might be imposed. He also pointed out that no one was prejudiced by this because there was only one person affected by it.

Councilmember Anduri questioned what the owner must do if he wants to tear down the improvement and return it to the existing state, and asked if a demolition permit or other permits would need to be obtained. Ms. Srivatsa said a demolition permit is required; additionally, the County Building Inspection Department will ask for a structural review of the wall that separates

the addition from the original structure. There will be additional inspections; the property owner may need to remove part of the wall to prove it is a fire-rated exterior wall, and there will be penalty fees imposed by the County in pulling a retroactive permit.

Councilmember Anduri questioned the cost of demolition and restoration. Mr. Bowie said the owner will also be required to recycle a percentage of construction and receipts will be needed. He did not have a formal estimate, but believed it would cost $10,000. Also, they will also buy a demolition permit, Dr. Monroe will have to show the remaining wall is structurally sound, and the proposition will be very expensive. He thinks the original construction cost was $35,000, so this cost will also be incurred by Dr. Monroe.

Councilmember Anduri questioned the potential for the Council to reconsider the matter, and City Attorney Subramanian said she believes the Council can reconsider the matter and did not cause a due process issue because the penalty is only against the property owner. She said the County will place the assessment once the City confirms it, and Ms. Srivatsa noted the County is representing the City of Lafayette.

Councilmember Federighi commented that, other than the fact that the County may assess, she questioned whether there were any new facts for the Council to consider regarding the timeline, warnings or admonitions that Dr. Monroe received in 2007. Mr. Bowie said Dr. Monroe has been a well-established member of the community for many years but is not sophisticated, and it amazes him that given the proximity of the City offices, the issue came up, as there was construction going on right across the street. He said this does not excuse the fact that a permit was not obtained, but he questions why no one knew about it. Dr. Monroe assumed the contractor and architect could assist him and straighten out the problem, and they could not. They then went to an architect Dr. Monroe felt could assist him, which was complicated with no follow-through, and Dr. Monroe did not understand the fact that he could just start destructive testing and prove that the building could conform to the Building Code because of the planning issue. So, all of this was fairly overwhelming, but attention was not paid to the matter and now it is a significant, financial burden. He said in a sense, the penalty is designed only to deter individuals from not getting a permit in the first place.

Councilmember Federighi said after Dr. Monroe was warned, he did nothing, and Mr. Bowie was informed that if they proceeded if the City did not hear back until November 1st and now it is August of 2009. Mr. Bowie said he met with staff on the planning issue and it became rapidly apparent that without as-built plans of the entirety of the building, one could not make the findings needed. The variance depends upon the amount of usable space added to determine parking and open space, so the plans that existed were inadequate. He said he was in touch with the Building and Planning Departments indicating to them that he intended to proceed to deal with it, and Dr. Monroe paid $2300 for the planning application. He filed the application, they took steps of looking at the project, trying to work with existing plans, retaining an architect, and then things fell apart. He could have been more diligent and followed through with the architect, but the point of the penalty is to be a deterrent and he believes Dr. Monroe has been sufficiently deterred.

Councilmember Federighi said if the Council considered this to be burdensome; she questioned how the Council would not also give the same opportunity to everyone who ignores permitting, letters, and deadlines. Mr. Bowie said he believes every situation to be different, referencing a previous agenda item the Council ruled on in July wherein the lender had foreclosed on the property which was being completely ignored and a hazardous condition, and he feels that is an example of a serious issue.

In Dr. Monroe's case, he acknowledged that there should have been a building permit and proper process, but when looking on the impact to the community, he said the building is tiny, it has been in the downtown for many years, the addition is behind the fence and maintained, and it is a different situation. When adding up all fees, the penalty to Dr. Monroe is very burdensome and he asked for some amount of relief.

Councilmember Anderson said he could not support reconsideration, given the logic that Dr. Monroe had so many opportunities and did not act. He said the penalty phase runs with the time spent when there was no action or work done. He agreed it is burdensome, appreciates the argument but has very little sympathy for the situation.

Councilmember Anduri said if the owner of the other property had fixed up the property, re-landscaped and rebuilt the house at a cost of $1 million, he said that penalty would not be waived because the Council does not want to set a precedent. Saying it was an innocuous condition, the Council heard the County Building Inspector testify that electrical wiring could have been put in improperly, and this is a reason why people must get permits. He did not appreciate the statement that the City should have seen the construction across the street, as this is not the City's obligation, and he did not appreciate sentences in the letter which refers to the City's citation apparently failing to acknowledge a basic fact. He felt there must be responsibility taken and agreed with Councilmember Anderson.

Councilmember Federighi agreed, and said at some point responsibility must be taken for action or inaction.

Vice Mayor Andersson said no doubt many members of staff and Council may have seen construction going on and each one probably assumed that a building permit had been obtained. He also did not understand why the Council should reconsider. He acknowledged that the Council could, but there is a written policy that the Council should uphold unless there is an exceptional situation.

ACTION: It was M/S/C (Anderson/Federighi) to deny the request for reconsideration. Vote: 4-0-0-1 (Ayes: Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None; Abstained: Tatzin).

Convene Redevelopment Agency

ACTION: It was M/S/C (Anderson/Andersson) to convene the Redevelopment Agency. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

8. STAFF REPORTS

A. Ann Merideth, Community Development Director

Agreement with Design, Community & Environment to prepare the Downtown Lafayette Specific Plan Environmental Impact Report

Recommendation: Approve agreement with Design, Community & Environment to prepare the Downtown Lafayette Specific Plan Program Environmental Impact Report.

Community Development Director Merideth said an EIR needs to be prepared as part of the process for the Downtown planning effort. The Agency obtained a grant from MTC and ABAG to financially assist in the process. Once the Agency had finished its review of the January draft plan, staff began the environmental review process which had two components; Notice of Preparation sent to agencies and preparation and release of an RFP for environmental consultants.

She said four proposals were received and reviewed by a technical review committee. Federal guidelines were followed which were provided by MTC and ABAG, Ms. Greenblat's expertise in traffic expertise, Ms. Sinnette's expertise in EIR's, and Diana Elrod's expertise in planning and housing issues. It was unanimous that Design Community and Environment (DCE) be recommended for selection by the Agency Board. The team doing the work is DCE, TJKM will conduct the traffic analysis, and Libby Siefel will prepare a companion document which reviews the fiscal impacts.

In terms of the proposal, the technical review committee was impressed with DCE who has done a number of community projects. The project manager lives in the Summit Ridge Townhouses above Acalanes High School and knows downtown Lafayette.

Agencymember Anderson questioned if some of the optional tasks were included in the contract such as the preparation of the four photo simulations or key view points, and Ms. Merideth confirmed these were included in the contract and budget.

Agencymember Anderson noted Knapp Architects is doing a historic properties evaluation. There are 5-10 properties, but he noted that Guy Atwood and Elliott Hudson sent a long report wherein they listed about 15 or 16 buildings. Ms. Merideth said this is what is in the General Plan; the list of historic properties has been validated and the General Plan has, as programs to be done, an evaluation of historic resources.

Agencymember Federighi referred to page 11 of the proposal; TJKM will conduct new mid-day peak hour turning movement counts on all 25 study intersections. She said the times given are 11:30 a.m. to 1:30 p.m. and she thought the concern was to get the peak hour traffic at intersections, which is later than what is proposed. She believed that the school traffic is influential and has the larger impact.

Agencymember Anderson said his sense is that this is the piece missing, as the City has the morning peak and the evening peak, but nothing in the middle of the day. Agencymember Federighi felt the peak was closer to noon to 3:00 or whenever school is let out.

Ms. Merideth said Ms. Greenblat discussed this with TJKM and given her experience, this is the peak time not covered; the lunchtime hours. The time school gets out is picked up by the evening peak.

Chair Tatzin referred to page 11 and said for each additional half hour, the City could pay less than $1,000, and he suggested going from 11:30 a.m. to 3:00 p.m., assuming TJKM can break out the data by half-hour increments and cover both. He said when the analysis was done for the addition of the school at Temple Isaiah the City found that their peak hour was well before the City's peak hour, which resulted in lower fees. He suggested that given the relatively low cost of analysis, more be done now. Ms. Merideth agreed to add one half hour to the analysis.

Agencymember Federighi referred to page 15, Alternatives Evaluation; project build-out numbers for housing units, commercial areas and resident employee populations for each of the alternatives. She hoped there would be more than that, such as what the visual and traffic impacts are of the different alternatives. Ms. Merideth responded that this is included, but just not as in depth.

Vice Chair Andersson referred to page 2 of the staff report; budget, which states that "The budget has also allocated $50,000 to prepare design guidelines. Since the Specific Plan will not be adopted until the spring, the guidelines can be deferred and the funds used for the EIR." He questioned if funds were allocated this year, but not used until next year. Ms. Merideth said staff will bring this back when the Agency looks at its next year budget, and she confirmed this would spend additional money for the EIR.

Agencymember Federighi questioned if the Agency will have the funds in its budget, stating on page 3, there is $150,000 grant, a $40,000 City match, and a $50,000 amount to prepare design guidelines, which gets to $245,000, and the proposal is $252,753 or about $8,000 short.

Chair Tatzin noted that the consultant's study is already budgeted and some of that money will be used. Ms. Merideth said all staff will be doing is deferring the design guidelines and they will be brought back for consideration in next year's budget.

Chair Tatzin said he had a number of issues. On page 13 of the work plan, there is the optional task of economic and fiscal analysis of plan implementation. While this is a fine set of tasks, it is not a set that he had envisioned. He envisioned much more of a feasibility analysis of the plan, not just for the Agency's activities but for the private activities. Given the public testimony received thus far, there will be pressure for a substantially reduced density alternative to be considered as an alternative. A potential implication of this if adopted is that property owners would decide to stop investing in Lafayette because the cost of construction alone would not yield a decent return regardless of what the land is thought to be worth. He was therefore more interested in hiring someone with more of a real estate development background and saying, if this is what was allowed to be done, would someone come in and invest in Lafayette and develop anything, and if so, what would be proposed for development. He said he was not sure there was much value in adopting a plan that no one will build.

Ms. Merideth said she had a long conversation and raised the issue with Ms. Seifel whose background is real estate. Chair Tatzin said from reading the document, the words do not address it; it talks more about how much fiscal revenues and municipal costs related to improvements. Ms. Merideth said what Ms. Siefel is getting at is that given the type of building, revenues will go up or down and this is what would be analyzed under each alternative. Chair Tatzin felt that possibly the word "build-out" scenarios was his issues because she will look at the plan assuming build-out numbers, how much development would one have and how much revenue would this turn into which does not take into account the possibility that if you adopt a plan, people may not build-period, and therefore, not relevant.

Agencymember Anderson said his sense was that BAE, who is part of the plan process, did an assessment of this region's capacity to absorb more office, commercial and residential. It looked at that in the context of Lamorinda, Walnut Creek and the general area. From that, they created a sense of how much space is supportable in this economy. If they are going to analyze that number, Ms. Siefel then will look at what the result in cost is to the City, jobs created, etc. Chair Tatzin said he believed that the BAE analysis was somewhat triggered to the WRT proposal. Agencymember Anderson said their numbers represented the potential for the City of marketing more development, but agreed it is a good point.

Chair Tatzin said, for example, if the City wants underground parking and the second story must be 50 feet back from the street frontage, the City may not get that. Ms. Merideth agreed to discuss this with Ms. Siefel.

Chair Tatzin said he had other miscellaneous comments, such as base map preparation. He felt that with all the work done by WRT, the City has a base map by now and did not understand why it needed to be done again. In the project description, it was not clear what the role of the Planning Commission was going to be in defining alternatives because the Council set up a process that they would do that.

Agencymember Anderson said this is the environmental documentation for those different alternatives. Chair Tatzin said it also states on the bottom paragraph of page 1; "The project description will include project objectives to be used in analyzing and evaluating project alternatives for the EIR." He said it is not clear who is defining the alternatives. Ms. Merideth said the Planning Commission is having their scoping meeting which is a part of the work plan.

Chair Tatzin confirmed that the City received a letter from the Town of Moraga asking Lafayette to study various things in the EIR which will be factored in. He said they will write standards of significance for the evaluation of impacts, and Ms. Merideth said there are already defined standards in CEQA. Chair Tatzin said specifically with regards to the aesthetics and visual impact, he questioned how to decide what a significant impact is, and Agencymember Anderson agreed that this would be very subjective.

Ms. Merideth said she will add more money for the traffic analysis and questioned if a revised work plan was needed for Ms. Siefel. Chair Tatzin said he wants to make sure he understands what is in the BAE analysis and what Ms. Siefel does will have value such that implementing the plan is likely to happen. Ms. Merideth said there will also be additional information from BAE in the new draft plan to address issues the Agency brought up in May and June.

ACTION: It was M/S (Anderson/Andersson) to approve the agreement with Design, Community & Environment to prepare the Downtown Lafayette Specific Plan Program Environmental Impact Report subject to modifications. Vote: 5-0.

B. Tracy Robinson, Administrative Services Director
Second Loan Agreement and First Amendment to Loan Agreement between the Lafayette Redevelopment Agency and the Lafayette Library & Learning Center Foundation

Recommendation: Approve the form and terms of the loan agreements between the Lafayette Redevelopment Agency and the Lafayette Library & Learning Center Foundation and authorize the Executive Director to execute the agreements once the final loan amount has been determined.

Administrative Services Director Tracy Robinson said the agreement has been reviewed in June by the Agency. The project is nearing completion and the Agency will need to bridge the gap. Terms of the loan are similar; interest rate at 8%, this increases the interest rate on the first loan to 6.5% for its duration, the loan will be paid back in one lump sum the next time bonds are issued from the RDA, which will be 2012/2013, and the sum of money is currently in question, which Chair Tatzin can speak to.

Agencymember Anduri questioned 2012/2013 and the term of the loan provides for prior to December 2012 and questioned the Agency's risk. Ms. Robinson said she would assume that the Agency could definitely be in a position to issue bonds in 2012. If, at that time it is felt that the market would be more advantageous to wait, the Foundation might be open to renegotiating, but the Agency will certainly have the capacity at that time.

Agencymember Anderson questioned the amount the Agency is looking for. Chair Tatzin said Ms Robinson had indicated it would be nice to get about $2.5 million from RDA sources to fund the library and leave some cushion in the RDA. Ms. Robison agreed and said a total of $4 million is needed; the Agency has $3 million of which $1.2 million will be taken away. It leaves very little cushion but some in addition to what the Agency will get this year. To borrow as much as possible would be advantageous for a shorter amount of time by the 2012 date.

Chair Tatzin said the reason the amounts are blank in the draft agreement is because Trustees of the Foundation are aware of the State budget situation and he thinks people would look statewide and believe RDA's are less credit worthy than two weeks ago. Unlike the first loan which would have otherwise been a gift, this is money they raised expressly for funding library operations. And, they will need to adjust their investment policy to give the Agency the loan. As a result, the Board has not had a discussion as to how much they are willing to loan, if anything. But, the Agency does not meet again until after they meet and he hoped for adoption this evening and then take it to them, and their discussion will be over the amount and not whether they will approve it. He felt there was support but expected questions.

Agencymember Anderson questioned if the action would be to approve the form and provide a maximum number. Chair Tatzin asked that the Agency approve it with the range of $1.0-$2.5 million. Agencymember Federighi questioned if this amount would affect Section 3.A. which refers to "shall pay the Foundation upon the issuance of Foundation Repayment Bonds", and Chair Tatzin said that $4 million refers to the amount of the existing loan, and the intent is that when bonds were floated in 2015, we would take $4 million from that to make a partial repayment on the first loan, so it is unaffected. Chair Tatzin suggested also allowing the Executive Director to make minor modifications to the document, as well.

Agencymember Anduri questioned what this does to the cash flow of the Foundation if this amount is tied up. Chair Tatzin said, assuming the Agency can pay it back, it is okay. At another meeting, the Agency will need to discuss transferring money from the private parking fund or the City offices reserve fund to finish the project.

Agencymember Anduri believed this would be a great deal for the Agency if approved by the Foundation, and Chair Tatzin agreed and said he was not sure how much they would be willing to loan, but the Agency can ask that they loan $2.5 million, and Agencymember Anduri agreed with this strategy.

Agencymember Anderson believed parameters should be in place for an amount, and Agencymember Anduri said the action is to authorize the Executive Director the ability to negotiate up to $2.5 million without having to return to the Agency.

Chair Tatzin confirmed there was no public comment.

ACTION: It was M/S/C (Anduri/Federighi) to approve the form and terms of the loan agreements between the Lafayette Redevelopment Agency and the Lafayette Library & Learning Center Foundation and authorized the Executive Director to execute the agreements once the final loan amount has been determined and make non material changes to the documents. Vote 4-0-0-1 (Ayes: Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None; Abstained: Tatzin).

Adjourn Redevelopment Agency

ACTION: It was M/S/C (Anderson/Andersson) to adjourn the Redevelopment Agency. Vote: 5-0- (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

9. PUBLIC HEARING

A. Michael P. Cass, Assistant Planner
ZT02-09: Interim Urgency Ordinance 588 Extending the Temporary Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries for Ten (10) Months and Fifteen (15) Days
Recommendation: Adopt Ordinance 588.

Ms. Srivatsa said staff recommends approval of the ordinance as stated in the staff report.

The public hearing was opened. There were no public comments, and the public hearing was closed.

ACTION: It was M/S/C (Anderson/Anduri) to adopt Ordinance 588; ZT02-09: Extending the Temporary Moratorium on the Establishment and Operations of Medical Marijuana Dispensaries for Ten (10) Months and Fifteen (15) Days and approve and issue this report describing the measures taken to alleviate the conditions which led to the adoption of Interim Urgency Ordinance 587 pursuant to Government Code Section 65858. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

B. Christine Sinnette, Senior Planner
Consideration of proposed amendments to the Lafayette Municipal Code consisting of (1) Ordinance 586 amending Chapter 6-23, Outdoor Storage and Repairs, (2) Ordinance 589 amending Chapter 1-3, Penalty Provisions, (3) Ordinance 590 amending Chapter 1-9, Administrative Citations, and (4) Ordinance 591 amending Chapter 8-21, Code Enforcement
Recommendation: Continue without discussion to the September 14, 2009 meeting.

ACTION: It was M/S/C (Anderson/Andersson) to continue the matter without discussion to the September 14, 2009 meeting. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None Absent: None).

10. CONSENT CALENDAR

Items requested for removal were Item A (Anduri) and Item E (Tatzin).

ACTION: It was M/S/C (Andersson/Anduri) to approve Consent Calendar items B, D, F, G, H, I, J and K. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

B. Results of Deer Hill Road and St. Mary's Road Pavement Rehabilitation Project Bid Recommendation: Adopt the project plans, specifications, and project details to conform to the Uniform Construction Accounting Act.

C. Grant of Trail Easement between Weylin G. Eng and Roselyn M Eng and the City of Lafayette relocating a segment of the Burton Ridge Trail
Recommendation: Authorize the City Manager to sign the Quitclaim Deed regarding a section of the original trail easement alignment and accept a relocated trail easement

alignment.

D. **Resolution 2009-46 Approving an authorization to apply for the City's remaining $113,000 in Measure AA local grant funds under the EBRPD Regional Open Space, Wildlife, Shoreline, and Parks Bond Ordinance**
Recommendation: Adopt Resolution 2009-46.

F. **Disposal of Surplus City Equipment**
Recommendation: Declare that the equipment is surplus property.

G. **Award of Contract for Culvert Repairs: PWS 09-03 and 09-04**
Recommendation: Award contract for PWS 09-03 and PWS 09-04 to William G. McCullough Company in the amount of $39,996.00.

H. **Increase Budget for Fund 32 Parking Program for FY08/09 by $26,500 to Account for Parking Fee Increases in the Happy Valley Road Parking Lot aka ATT Parking Lot**
Recommendation: Increase the budget for Fund 32 Parking Fund by $26,500 and authorize the City Manager to sing the lease termination.

I. **2009 Planning Division Work Plan: Schedule for Completing Long Range Tasks**
Recommendation: Receive and file.

J. **Resolution 2009-47 Endorsing and Encouraging Residential Seismic Strengthening Plan for Wood Frame Houses**
Recommendation: Adopt Resolution 2009-47.

K. **Designation of City Manager to Award Stanley Boulevard Traffic Calming and Sidewalk Project**
Recommendation: Delegate authority to the City Manager to award the Stanley Boulevard Traffic Calming and Sidewalk Project with the understanding that the lowest responsible bid would allow the work to be completed within the existing project budget.

Items Removed:

A. **City Council Minutes**
July 27, 2009
Recommendation: Approve

Councilmember Anduri referred to Eden Housing and asked when the revised agreement was going to return to the City Council. Srivatsa said that Eden had contacted staff and indicated that a letter with the minutes of the last Council meeting would suffice to file the TCAC application. The attorneys are reviewing the loan agreement and it will be considered at the September 14, 2009 Council meeting.

Councilmember Anderson asked that the Roll Call on page 1 be amended.

ACTION: It was M/S/C (Anduri/Anderson) to approve the City Council Minutes of July 27, 2009, as amended. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

E. 701 Glenside Circle – Request for a six-foot wood fence and a wood fence on a masonary retaining wall that encroaches into the public right-of-way
Recommendation: Approve the encroachment into the City right-of-way along the property of 701 Glenside Circle and authorize the City Manager to execute an encroachment agreement with the applicant and direct the City Clerk to record.

Mayor Tatzin said he could not tell from the drawings as to whether or not the fence was opaque.

Thomas Cass, owner, said the plan is to build a redwood fence. He said there is a chain link along Glenside Drive, it is noisy and his plan was to replace it with a redwood fence, and a solid opaque fence.

Mayor Tatzin said he understands the reasons for doing it, prefers not walling off properties and noted that he has generally not been supportive or voted for such requests.

Mr. Cass said when he purchased the house, he knew Glenside Drive was busy, and many people told him to install the fence to reduce the noise, but the seller never disclosed it properly. He spoke with an attorney, did not want to sue and his plan is that if he did it on the property line, it would come within 10 feet of the house and he would need to tear down trees.

Councilmember Anderson said since the house is lower, there is value to have the solid screen and he supported the recommendation.

ACTION: It was M/S (Anderson/Anduri) to approve the encroachment into the City right-of-way along the property of 701 Glenside Circle and authorize the City Manager to execute an encroachment agreement with the applicant and direct the City Clerk to record. Vote: 4-1-0 (Ayes: Andersson, Anduri, Federighi, Anderson; Noes: Tatzin; Absent: None).

11. COUNCIL/COMMISSION REPORTS

A. Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.

Councilmember Federighi said under the Contra Costa Solid Waste Authority, the Authority or Sheriff is allowing individual cities to have a used prescription dispensary that looks like a mailbox. However, it must be located in a police station and is emptied out every day. She said people who bring in their old prescriptions are to remove them from the bottle and stick them in a plastic bag. She has done this in Walnut Creek, and said she would love to see this work in Lafayette.

Councilmember Anduri suggested discussion take place regarding staffing the Wine and Food Festival Council booth and Mayor Tatzin requested the City Clerk circulate a sign-up sheet for assignments, and noted that the event is September 19th and 20th.

B. Councilmembers Federighi and Anderson
First Amendment to Third Amended Joint Exercise of Powers Agreement with the Central Contra Costa Solid Waste Authority
Recommendation: Discuss and direct staff.

Councilmember Federighi reported on the request for amendment, stating that if it were to occur that the Authority fell behind in its efforts and the State Solid Waste Board imposed a penalty, that the County, even if they were partly responsible for this, would not pay because they are not part of the regional agency. Their position is that they will do a separate report if they are at fault and

will be separately assessed. The remaining incorporated cities support this, and she said it is unlikely that a penalty will be imposed.

ACTION: It was M/S/C (Anderson/Federighi) to approve the First Amendment to Third Amended Joint Exercise of Powers Agreement with the Central Contra Costa Solid Waste Authority. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

12. WRITTEN COMMUNICATIONS

A. **Letter dated July 21, 2009 from Frederick L. Granados, National Committeeman for the National Association of Insurance requesting a proclamation recognizing September as Life Insurance Awareness Month.**
Recommendation: Discuss and direct staff.

ACTION: It was M/S/C (Andersson/Anduri) to receive and file. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

B. **Request from the City of Walnut Creek to co-host a Veteran's Day ceremony on Wednesday, November 11, 2009 at the Lafayette Veterans Memorial Building.**
Recommendation: Discuss and direct staff.

Mayor Tatzin reported the City of Walnut Creek has held a recognition but would like to hold a joint event in November. Councilmember Federighi stated she hoped that music for the event could be provided by a Lafayette group.

ACTION: It was M/S/C (Andersson/Anderson) to approve a joint Veteran's Day ceremony on Wednesday, November 11, 2009 at the Lafayette Veterans Memorial Building. Vote: 5-0-0 (Ayes: Tatzin, Andersson, Anduri, Federighi, Anderson; Noes: None; Absent: None).

13. CLOSED SESSION

The City Council adjourned to Closed Session at 10:30 p.m.

A. **Property: Olympic Blvd. Property - APN 185-190-006-6**
Agency Negotiators: Steven Falk, City Manager and Jennifer Russell, Parks Trail and Recreation Director
Negotiating Parties: David Kramer, Associate Real Property Agent for Contra Costa County
Under Negotiation: Price and Terms of Payment

B. **Property: 66 Acre Parcel - APN 238-080-036**
Agency Negotiators: Steven Falk, City Manager and Niroop Srivatsa, Planning and Building Manager
Negotiating Parties: Sohrab Nazari, Owner
Under Negotiation: Price and Terms of Payment

C. **Conference with Legal Counsel - Anticipated Litigation**
Government Code section 54956.9 (1 case)

D. **Conference with Legal Counsel - Existing Litigation**
Government Code section 54956.9(a)

Lamorinda Properties, LLC v. City of Lafayette
Contra Costa Superior Court Case Number MSN09-0663

Richard F. Holmes v. City of Lafayette
California Court of Appeal Case Number A122849

OPEN SESSION: Mayor Tatzin reported that the Council held a Closed Session and no reportable action had been taken.

14. ADJOURNMENT

The City Council adjourned the meeting at 11:35 p.m. to the next Regular City Council meeting on September 14, 2009.

APPROVED:

_____
Don Tatzin, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk